



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1230]

Certain Electric Shavers and Components and Accessories Thereof

Commission Decision Finding a Violation of Section 337; Issuing a General Exclusion

Order and Cease and Desist Orders; Terminating the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to affirm the presiding administrative law judge (“ALJ’s”) initial determination (“ID”) (Order No. 33) finding a violation of section 337 of the Tariff Act of 1930, as amended, in this investigation and has issued a general exclusion order and cease and desist orders prohibiting the importation of certain electric shavers and components and accessories thereof. The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2532. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On November 18, 2020, the Commission instituted this investigation based on a complaint filed by Complainant Skull Shaver (“Skull Shaver”) of

Moorestown, New Jersey. 85 FR 73510-11 (Nov. 18, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain electric shavers and components and accessories thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,726,528 (“the ’528 patent”) and D672,504 (“the ’504 design patent”). *Id.* The Commission’s notice of investigation named the following eleven entities as respondents: Rayenbarny Inc. (“Rayenbarny”) of New York, New York; Bald Shaver Inc. (“Bald Shaver”) of Toronto, Canada; Suzhou Kaidiya Garments Trading Co., Ltd. (“Suzhou”) d.b.a. “Digimator” of Suzhou, China; Shenzhen Aiweilai Trading Co., Ltd. (“Aiweilei”) d.b.a. “Teamyo” of Shenzhen, China; Wenzhou Wending Electric Appliance Co., Ltd. of Yueqing City, China; Shenzhen Nukun Technology Co., Ltd. (“Nukun”) d.b.a. “OriHea” of Shenzhen, China; Yiwu Xingye Network Technology Co. Ltd. (“Yiwu Xingye”) d.b.a. “Roziapro” of Yiwu, China; Magicfly LLC (“Magicfly”) of Hong Kong; Yiwu City Qiaoyu Trading Co., Ltd. (“Yiwu City”) of Yiwu, China; Shenzhen Wantong Information Technology Co., Ltd. (“Wantong”) d.b.a. “WTONG” of Shenzhen, China; and Shenzhen Junmao International Technology Co., Ltd. (“Junmao”) d.b.a. “Homeas” of Shenzhen, China. The notice of investigation also named the Office of Unfair Import Investigations (“OUII”) as a party. *Id.*

The Commission terminated Rayenbarny from the investigation because its accused product was actually imported by Benepuri LLC (“Benepuri”) of Menands, New York; the Commission allowed Benepuri to intervene as a respondent. Notice, 85 FR 82514, 82515 (Dec. 18, 2020). The Commission later granted Skull Shaver’s motion to amend the Complaint and the notice of investigation to correct the name of Wenzhou Wending Electric Appliance Co., Ltd. d.b.a. “Paitree” as Wenzhou Wending Electric Appliance Co., Ltd. (“Wenzhou”), and to correct the addresses of several respondents. Notice, 86 FR 14645, 14645 (Mar. 17, 2021). The Commission terminated Magicfly from the investigation on the basis of settlement. Notice at 2 (May 19, 2021). The Commission terminated Nukun and Benepuri from the investigation on the

basis of withdrawal of the complaint. Notice at 2 (June 21, 2021) (Nukun); Notice at 2 (Oct. 28, 2021) (Benepuri). All of the remaining respondents (*i.e.*, all respondents other than Magicfly, Nukun, Benepuri and Rayenbarny) defaulted. *See* Notice at 3 (May 21, 2021) (seven defaulting respondents); Notice at 2 (Dec. 9, 2021) (Bald Shaver defaulting). Taken together, the eight defaulting respondents are: Suzhou; Yiwu City; Wenzhou; Aiweilai; Junmao; Wantong; Yiwu Xingye; and Bald Shaver.

On May 26, 2021, Skull Shaver filed a motion for summary determination of violation of section 337 by the eight defaulting respondents and for a recommendation that the Commission issue a general exclusion order (“GEO”) and cease and desist orders (“CDOs”). *See* Complainants’ Motion for Summary Determination of Violation and for Recommended Determination on Remedy and Bonding. Skull Shaver accused Yiwu Xingye and Yiwu City of infringing claims 1-3 of the ’528 patent and the claim of the ’504 design patent. *Id.* at 5. It accused the other respondents of infringing only claim 1 of the ’528 patent. *Id.* On June 7, 2021, OUII filed a response in support of Skull Shaver’s motion. *See* Commission Investigative Staff’s Response to Skull Shaver’s Motion for Summary Determination of Violation. No respondent filed a response to Skull Shaver’s motion.

On September 23, 2021, OUII filed a notice of supplemental authority concerning the domestic industry requirement. On September 28, 2021, the ALJ issued an order (Order No. 31) ordering certain supplementation of Skull Shaver’s domestic industry analysis. On October 14, 2021, Skull Shaver submitted its supplement in response to Order No. 31. No other responses to Order No. 31 were filed. On November 18, 2021, the ALJ granted-in-part Skull Shaver’s motion for summary determination as the subject ID.

The ID found that Skull Shaver owns the asserted patents, and that those patents are valid and enforceable. ID at 3. The ID further found that although all respondents imported, sold for importation, or sold within the United States after importation at least one accused article, the only respondents whose articles infringe the asserted patents are Yiwu Xingye and Yiwu City.

Id. at 3-4. The ID found no infringement as to the other respondents, whose products lack a second recess, *see* ID at 51-52, in view of the ALJ's construction of "recesses" as "indentations that are substantially concave surfaces," *id.* at 16 (citation omitted), and Skull Shaver's forfeiture of an infringement theory under the doctrine of equivalents, *id.* at 50 n.7. The ID found that personal jurisdiction is not necessary over each defaulting respondent, but that the defaulting respondents waived any opportunity to contest the allegation that personal jurisdiction exists. *Id.* The ID further found that Skull Shaver meets the technical prong and the economic prong of the domestic industry requirement. *Id.* at 4. As to remedy, the RD found that there is a widespread pattern of unauthorized use of the asserted patents and it is difficult to identify the source of these products; and that a GEO is necessary to prevent circumvention. *Id.* at 4. The RD also recommended issuance of CDOs against the two infringing respondents, who are presumed to maintain domestic inventories. RD at 80-81. The RD recommended a bond rate of one hundred percent (100%) because complete pricing information is not available. RD at 82.

No petitions for review of the ID were filed. The Commission determined to review the ID's findings concerning the economic prong of the domestic industry requirement, and not to review the ID's findings on other issues. Notice, 87 FR 990, 991 (Jan. 7, 2022). The review notice solicited written submissions, including on remedy, the public interest, and bonding from the parties, interested government agencies, and the public. *Id.*

In response to the Commission notice, Skull Shaver and OUII each filed an opening submission and a reply. No other parties filed submissions.

On review, the Commission has determined to affirm the ID's finding that Skull Shaver has satisfied the economic prong of the domestic industry requirement, and the Commission thereby affirms the ID's finding of a violation of section 337.

The Commission finds that the RD's recommended remedy is appropriate for the reasons set forth in the attached opinion. Accordingly, the Commission finds that the appropriate remedy is: (1) a general exclusion order prohibiting the entry of certain electric shavers and components

and accessories thereof; and (2) cease and desist orders directed to Yiwu Xingye and Yiwu City. The Commission has determined that the public interest factors enumerated in section 337(d), (f), and/or (g), 19 U.S.C. 1337(d), (f), (g), do not preclude the issuance of the GEO or the CDOs.

The Commission has determined that a bond in the amount of one hundred percent (100%) of the entered value of the subject articles is required during the Presidential review period, 19 U.S.C. 1337(j) for the reasons set forth in the RD and the attached Commission Opinion. The investigation is hereby terminated.

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service for any party without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

The Commission's orders and opinion were delivered to the President and the United States Trade Representative on the day of their issuance.

The Commission vote for these determinations took place on March 17, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 17, 2022.

Lisa Barton,

Secretary to the Commission.